RCGP Summary
The Initial Government Response to the Francis Report March 2013

Overview

On 26 March 2013 the Government published its initial response to the Francis Inquiry into failures of care at Mid Staffordshire NHS Foundation Trust.

The Government’s response sets out the approach it intends to take to address the 290 recommendations made by the Francis Report. Whilst the Government has made a range of commitments in this response, it has not responded to every recommendation in detail. A number of further reviews have been commissioned, and it is expected that the Government will make more policy announcements relating to the Francis report over the course of 2013.

Part A of this summary provides RCGP members with an overview of the Government’s response. Whilst much of the report focuses on secondary care, Part B of this document summarises findings that relate more directly to general practice and primary care, together with the RCGP’s initial response where applicable.

Further resources

- Read the RCGP’s press statement in response to the Government’s statement.
- Read the RCGP’s position statement on the Francis report.
- Access an online version of the Government’s Response to Francis and full Francis Report.
- Read the RCGP’s press statement in response to the publication of the Francis report.
- Further information and guidance on NHS ‘whistle blowing’ and an accompanying policy statement is available on the RCGP website.

Part A - Overview of the Government’s response

The Government’s response focuses on the goal that ‘the NHS is there to serve patients and must therefore put the needs, the voice and the choices of patients ahead of all other considerations”. The Government has split its response into five key areas:

1. Preventing Problems
2. Detecting problems quickly
3. Taking action promptly
4. Ensuring robust accountability
5. Ensuring staff are trained and motivated
The Government has made the following commitments in their response:

Preventing problems

- Following the Fundamental Review of Data by the NHS Confederation, a drive to reduce paperwork and a focus on outcomes rather than processes will be implemented to give NHS staff more time to care.

- Professor Don Berwick (former adviser to President Obama) will lead a National Patient Safety Advisory Group to advise on a whole system approach to ensure ‘safety and a zero tolerance of avoidable harm is embedded in the NHS’. The report is due in July 2013 and will advise on how to bring about genuine cultural change.

- **Appointment of Inspectors** - The Care Quality Commission will appoint a new Chief Inspector of Hospitals and a Chief Inspector for Social Care to champion the interests of patients and make judgements about the quality of care. The Government has also said it will also look into the merits of a chief inspector of primary care (see Section B).

- The role of CQC will widen from being a regulator of compliance to becoming an inspector of quality. Monitor and the CQC will remain separate organisations.

Detecting problems quickly

- An aggregated rating system for healthcare providers (possibly including GPs) similar to ‘OFSTED style’ ratings will be introduced. No hospital will be rated as good or outstanding "if fundamental standards are breached". (See Part B for an overview of the GP specific recommendation).

- A Duty of Candour will be introduced applying to providers to reinforce the existing contractual duty. It appears unlikely that this will be extended to individuals although this has not been clarified beyond doubt.

Taking action promptly

- Fundamental standards below which care should never fall will be developed with the CQC, NICE, commissioners, professionals, patients and the public.

- Following the Law Commission’s review of the legal framework for professional regulation there will be an overhaul of the complex legislation in this area into a single Act to enable faster and more proactive action on individual professional failings. The GMC, Nursing Midwifery Council and other professional regulators will consider the Law Commission’s recommendations further before making a fuller response.

Ensuring robust accountability

- A barring mechanism will be introduced to prevent unsuitable executives from moving to senior positions elsewhere.

Ensuring staff are trained and motivated

- Student nurses will spend up to a year on the front line working as healthcare assistants. This will become a prerequisite of obtaining funding.

- Revalidation for nurses – Chief Nursing Officer and the Department of Health Director for
Nursing will work with the Nursing and Midwifery Council in developing an effective and affordable approach to revalidation appropriate and proportionate to nursing and midwifery professions.

- The Chief Inspector of Hospitals will ensure that all hospitals are acting upon the recommendation that all healthcare assistants are properly trained and inducted before they care for people. The new Chief Inspector for Social Care will also ensure that all unregulated social care support staff have the induction and training they need to meet their employers’ registration requirements.

- The Government take action to attract professional and external leaders to senior management roles. They will extend the NHS Leadership Academy’s development programmes for a range of NHS staff including doctors, allied health professionals, nurses, midwives, pharmacists and healthcare scientists, to help them in leading their teams, services and organisations to achieve better, more compassionate patient care.

- Within four years, every civil servant in the Department of Health will have experience of the frontline with the Senior Civil Service and Ministers leading the way.

Part B - General Practice, CCGs and the Government’s Response

Ratings for healthcare providers

The Government has asked the Nuffield Trust and CQC to develop proposals for rating GP practices, hospitals and care homes to give patients and organisations an easy to understand assessment of how well a provider is doing relative to its peers.

The Nuffield Trust report, Rating Providers for quality: a policy worth pursing?, provides initial advice on an aggregate rating for GP practices, hospitals and care homes based on information that matters to patients and service users. Hospitals will be given service-specific ratings where possible.

RCGP response: We support the development of good quality information systems for health and social care. But we believe that a single summary score for a general practice would mislead patients rather than helping them to assess the quality of GP practices in their area. A single summary score is unlikely to take in account factors such as age of the practice population, deprivation and population mobility and will therefore be unable to offer meaningful comparisons.

Chief Inspector for Primary Care

Alongside the confirmed introduction of a Chief Inspector of Hospitals and a Chief Inspector for Social Care, the Government will be considering the introduction of a Chief Inspector of Primary Care. The Care Quality Commission have been asked to consult with the public, patients, health professionals and commissioners on whether an inspection approach which applies to hospitals could be extended to primary and community services.

RCGP response: We are open to working with the Government and the Care Quality Commission to examine how the system for regulation of primary care could be improved to make it more effective, including whether there is a case for introducing a Chief Inspector of Primary Care. However, suggestions that the broad approach proposed for hospital inspection could be extended to primary and community services should be treated with
some caution – a tailored approach is needed to how inspections will work for different health and social care services.

Duty of Candour

The Government intend to introduce a statutory duty of candour on health and care providers to inform people if they believe treatment or care has caused death or serious injury, and to provide an explanation.

**RCGP response:** RCGP is committed to promoting the principles of openness, transparency and candour rightly identified in the Francis report as being key to achieving cultural change in the NHS. We agree that there may be a case for the introduction of a statutory duty of candour on health and care providers, whilst welcoming the decision not to commit at this stage to the introduction of a new statutory duty of candour on individuals. Careful consideration of the scope of the proposed provider duty will be vital, and we will work with the Government to explore how it would apply to GP practices.

Whistleblowing and gagging clauses

The Government’s response acknowledges that staff who speak up about problems should be supported and not vilified. The NHS Constitution has been amended to reflect the Francis Inquiry’s findings including explicit rights and pledges on whistle blowing. The annual NHS Staff Survey will be amended to ask staff if they are aware of how to raise a concern, enabling benchmarking across providers.

**RCGP response:** Whilst the RCGP recognises that the Government has taken some positive initial steps towards supporting NHS whistle blowers, much more, and sustained, action is needed to change the current culture of blame and harassment that far too often faces those who seek to raise concerns about patient care.

The NHS Commissioning Board should publish a comprehensive plan of action explaining how it intends to enforce the ban on ‘gagging clauses’. Whilst the commitment to update guidance in this area is welcome, we note that in recent years clear instructions and guidance on this topic have not been followed and in practice the use of such clauses has persisted. Much more is needed if we are to achieve the Secretary of State’s aim of bringing the era of gagging NHS staff to an end.

In addition, a lack of practical and financial support is actively discouraging NHS whistle blowers to come forward. The Government should look again at how to improve such support, and RCGP would like to see discussions take place between Government, medical defence organisations, trade unions and Royal Colleges to explore how we can tackle this.

Criminal Sanctions

Before taking decisions on whether or not to introduce criminal sanctions for individual staff working at service level, the Government will consider the conclusions of Don Berwick’s review of safety and what further action might be taken by the Nursing and Midwifery Council, the General Medical Council and other professional regulators.

**RCGP response:** The Government is right to take a cautious approach to the Francis report’s recommendation that criminal liability should apply at an individual level for staff providing NHS services where a breach of fundamental standards has occurred. Where there is evidence of professional negligence or of contravention of the criminal law, individuals must of course be subject to the relevant processes and sanctions. RCGP shares
the Government’s concerns, however, that the introduction of a new criminal offence could have a counterproductive effect by discouraging a more open and transparent culture.

Commissioning

The NHS Commissioning Board (which will now be known as NHS England) will hold CCGs to account for the quality outcomes they achieve and for financial performance, and will have the power to intervene where there is evidence that CCGs are failing.

Quality Surveillance Groups (QSG) will work with CCGs NHS CB, regulators, providers and other partners to gather intelligence and information from local partners and services to raise concerns about quality and to agree what actions should be taken to address them.